

**UNITED STATES DISTRICT COURT  
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.2.1  
Eastern Division**

Louis E Gulley

Plaintiff,

v.

Case No.: 1:17-cv-08209

Honorable Edmond E. Chang

Wexford Health Sources, Inc., et al.

Defendant.

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**NOTIFICATION OF DOCKET ENTRY**

This docket entry was made by the Clerk on Monday, March 26, 2018:

MINUTE entry before the Honorable Edmond E. Chang: Defendant's motion [10] to dismiss is denied. Defendant first argues that Exhibit G, an IDOC memorandum entitled "Psychotropic Medication Information," contradicts Plaintiff's allegation that he was not informed of the side effects of Risperdal, Remeron, and Depakote. But of course the complaint actually alleges that Plaintiff received the memorandum on 04/27/2016, which is almost one year after Defendant prescribed the medications — the complaint says that happened on 04/22/2015. R. 10 at 5 (the page number refers to the.pdf pagination). How the defense's motion missed that point is puzzling, because the two allegations appear on the same page in the complaint and also is described in the screening order. And the complaint also specifically alleges that gynecomastia is not listed in Exhibit G, and that is right. Second, Defendant argues that the medical records show that Plaintiff did not develop gynecomastia, but of course Plaintiff alleges to the contrary. At the pleading stage, the Court cannot simply credit the medical records over Plaintiff's description of the (alleged) physical manifestations of gynecomastia (and other alleged side effects). The screening order described the inconsistencies in detail, so obviously the Court is aware of the discrepancies, and indeed the screening order warned Plaintiff of the possible penalties if he made an allegation with no reasonable basis in fact. R. 8 at 4–5. It is no doubt frustrating to Defendant that what he believes to be a factually frivolous claim gets past the pleading stage, but that simply cannot be resolved at this stage and is no excuse for filing a dismissal motion like the one that was filed. The answer is due by 04/05/2018. The status hearing of 04/12/2018 remains as scheduled. Emailed and mailed notice(slb, )

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